Exhibit 16

United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp. et al.
Civil Action No. 07-10248-PBS

Exhibit to the August 28, 2009 Declaration of James J. Fauci In Opposition To Corrected Boehringer Ingelheim Corporation and Boehringer Ingelheim Pharmaceuticals, Inc. Local Rule 56.1 Statement of Undisputed Material Facts in Support of Their Motion For Summary Judgment

MINUTES
OF THE
MEETING OF THE BOARD OF DIRECTORS
BOEHRINGER INGELHEIM CORPORATION

OCTOBER 28, 1998

A meeting of the Board of Directors of BOEHRINGER INGELHEIM CORPORATION, a Nevada corporation, ("the Corporation"), upon due notice by letter sent to all directors, convened at the offices of the Corporation in Ridgefield, Connecticut on October 28, 1998 at 8:30 a.m.

Board members present were:

Dr. Louis Fernandez, Chairman
Mr. Werner Gerstenberg
Dr. Heribert Johann
Dr. Thomas Heil
Dr. Jere E. Goyan
Mr. Vaughn D. Bryson

Board members absent:

None

Secretary: Mr. Philip J. Franks

Present by invitation for the entire meeting were:

Mr. Holger Huels
Mr. Walter Poerschmann

Present by invitation for portions of the meeting were:

Mr. Sheldon Berkle
Dr. Anthony J. Corso
Mr. Fintan M. Molloy
Prof. Dr. Peter Mueller
Mr. David W. Nurnberger
Mr. Thomas Peterson
Mr. Thomas R. Russillo
Dr. Kirk Shepard
Dr. J. Douglas Wilson

Dr. Fernandez presided as Chairman of the meeting. Mr. Franks, the Secretary, took the Minutes.

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Dr. Fernandez called the meeting to order at approximately 8:30 a.m. and, it being determined that all directors were present, the meeting was declared open.

Dr. Fernandez then made a motion that the Minutes of the Board meeting of July 17, 1998 be approved. The motion was seconded, and by the unanimous affirmative vote of all directors present, the following resolution was adopted:

RESOLVED that, the Minutes of the Board of Directors meeting held on July 17, 1998 be, and they hereby are, approved in the form submitted to this Board.

Overview of the Worldwide Business

Dr. Johann then gave an address on worldwide budget issues for 1999. He indicated that the Trend for 1999 predicts a loss of 7 Million DM after taxes. Results after taxes have declined over the past several years, some of the decline due to the sale of the bakery products division and Basotherm. However, even after discounting for these divestitures there has still been a sharp decline of after tax income. There are several reasons for this. In 1998 actual sales compared to the annual discussion figure was short by 600+ Million DM. 1998 will end up roughly on the original strategy numbers. It is projected that in 1999, the Company will be below the original profit targets by 300 to 400 Million DM. 1999 sales of pharmaceuticals are projected to be below the annual discussion number by approximately 600 Million DM. The chemicals division has divested some businesses and will be about 70 Million DM less than 1998 sales and well below the annual discussions. The animal health business will be below budget by about 20 Million DM in 1998.

The Trend for 1999 projects that human pharmaceuticals operating results will be about 410 Million DM, which is well below the actual figure for 1998. The animal health business will show no improvement over 1998. The Trend from 1995 through 1999 shows operating

expenses have grown much faster than sales so that operating margins have decreased over these years. This Trend is expected to continue into 1999.

It is anticipated that sales and marketing expenses will increase to 3 Billion DM in 1999 which will be an increase of 500 Million DM over 1998. RD&C will reach 1.9 Billion DM in 1999 which is 200 Million DM over 1998. Currently sales and marketing expenses are 30.9 % of revenues and RD&C constitutes 19.4% of revenues. This is clearly unacceptable. In 1999 we must add at least 700 Million DM to operating income on a worldwide basis. This cannot be achieved by cutting costs by 10% to 15% across the board. Rather, we must look into the ongoing projects in the various countries to determine where to cut back. Eastern block expansion may have to be delayed. The U.S.A. is a prime country, but this does not mean its 1999 budget will be accepted as currently proposed.

All expenses must be prioritized including those for additional personnel. The 1999 budget as originally presented calls for 1,500 new hires worldwide in 1999 on top of the 2,500 budgeted in 1998. These matters must be addressed specifically in each country, and they are especially difficult in Germany and Japan. The negative influence of the Yen against the DM is continuing and there are structural problems in France and England. On the other hand, RD&C expenses must be cut on a corporate, worldwide level. These expenses are no longer in line with the appropriate development of the business. Therefore, approval of the final budget will be delayed until mid-January, 1999. There must be a redefinition of priorities which will undoubtedly affect future years; that is, into the Strategic Plan period. Mr. Gerstenberg stated that the U.S. management is committed to revising the 1999 budget for the U.S.A. He expressed surprise by the magnitude of the worldwide problem and promised that the U.S. will do its part to rectify the problem.

Overview of Current Activities of BIC and Its Subsidiaries – Key Goals and Accomplishments
(Presented by Mr. Gerstenberg)

In 1998, net sales were budgeted at $1.455 Billion. The Expectation is $1.483 Billion or an increase of 2% over budget. The planned exchange rate for 1998 was $1 U.S. = 1.67 DM. For the period through September, total U.S. operations are close to budget in sales. Vetmedica and the Self Medication Unit are below budget. For operating income of the U.S. operations, the 1998 budget was $136.9 Million. The Expectation is $75.2 Million. Due to several special events, the largest being additional royalties paid on behalf of Bilchem and including clinical trials and additional valve work, the year-to-date actual profit is $36.1 Million against the year-to-date budget of $78.1 Millon.. The actual profit is well below budget and management must address where to prioritize to allocate the corporation's resources and another look must be taken at the SM and chemicals businesses.

With respect to Ben Venue Laboratories, the integration of the company is well on track with the exception of internationalization of the BVL product line. The original time lines for this will not be achieved. Additional opportunities exist in Brazil, Mexico and Argentina.

New product launches are going well, with Vetmedica having launched VENTIPULMIN® (clenbuterol) and BAPTEN® (beta-aminopropionitrile fumarate). MOBIC® (meloxicam) is on schedule for submission to the FDA as is AGGRENOX™ (aspirin/dipyridamole). MICARDIS® (telmisartan) will be launched in November.

The U.S. is ahead of schedule with respect to Y2K issues, but work remains for the first half of 1999. There are two significant open situations: Microsoft® is not stating unequivocally

that it is Y2K compliant and hospitals are not ready and may have to buy large quantities of products ahead of the year 2000.

The U.S. faces many challenges for 1999.

BIPI: •*Expansion of Field Force*
•*New product launches*
•*Selection of co-promotion partners*
•*SM competition*

RLI: •*Recruiting new employees*
•*Increased product development efficiency*

BVL: •*Registration of new products*
•*Continued autonomy*

BIVI: •*Merger of BI/Nobl and Vetmedica*
•*Poor market conditions*

B. I. Chemicals:
•*Expansion to meet vertical integration*
•*Headcount*
•*Infrastructure*
•*New facilities*

External Factors:
•*Weakening U.S. economy*
•*Y2K issues*

Cultural Challenges:
•*Entrepreneurial spirit*
•*Reduced operating income*
•*Customer focus*
•*Integration of the SBU Ethical Pharmaceuticals*

Management Challenges:
•*Inventory levels*
•*Accounts receivable*
•*Loans/financing costs (BIC loans will amount to $750 Million with interest payable of approximately $35 Million per year)*
•*R&D Costs*
•*Recruiting*
•*Space*

1999 Goals:

- *17% increase in sales to $1.7 Billion*
- *Operating Profit of $75.2 Million*
- *13 INDs, 22 ANDAs, 5 NDAs, and 7 USDA filings*
- *Complete country strategy*
- *Maintain capital spending, timely and on budget*
- *Foster open communication and entrepreneurial spirit*
- *Improve safety record.*

Animal Health – Presentation of Latest Preview 1998 and Budget 1999
(Invited Guest Mr. Molloy)

Mr. Molloy began his presentation by stating that he had never before in his career experienced the current dynamics of the animal health market. It was agreed that swine and beef production are always very cyclical and to a certain extent can be foreseen, but that the magnitude of this downturn has never been seen before. Mr. Molloy explained how the pork producers had expanded to compete in the world markets for pork and to increase U.S. consumption, but it did not work. The cost to produce pork is currently about $38 per hundred weight and the price is now $28 per hundred weight and may go down to $20. It is likely that the environmental issues will ultimately increase costs considerably. It was projected that by the year 2002 the major competitor of pork will be poultry and that Brazil will be the largest producer of pork. The cattle market is also depressed. All producers are losing money on cattle. Beef consumption has dropped. There is nothing good on the horizon for the animal health industry at least for the next nine months or more. There is a tremendous over supply of meat. Mr. Molloy stated that it is important to expand the business into companion animals which sector is not so cyclical. The plan is to expand the companion animal business and the export business in 1999. It is anticipated that in 1999, swine will be 37% of the business, cattle 33%, small animals 14% and export 16%. 1999 will be a very difficult year. In addition, Vetmedica

did not anticipate that some Racing Commissions would ban VENTIPULMIN® (clenbuterol) instead of giving a 72-hour withdrawal period. The company has a good portfolio of equine products, but it will take one to two years or more to become a real player. For 1998, Vetmedica will be most likely $20 Million below budget in sales and $10 Million below in operating profit. In order to be realistic, some revisions must be made to the existing 1999 budget. Solutions will include: reducing operating costs by reducing headcount of the 1999 budget by about 100; complete restructuring of the business; eliminating the Food Safety Program; and postponing capital expenditures.

There was a brief discussion about worldwide expectations for the BI animal health business in 1999, including a projection that operating income would increase by 10 Million DM. Also discussed was the need to better understand allocations to animal health from BIC.

<u>**B. I. Chemicals, Inc. - Presentation of Latest Preview 1998 and Budget 1999**</u>
(Invited Guest: Dr. Corso)

Dr. Corso presented the strategy for flexible vertical integration. The mission is to provide BI companies with a secure, high quality source of active ingredients and to supply the merchant market profitably. Other elements of the strategy are: to build Petersburg into a world class site for active pharmaceutical ingredients; to support affiliates in the core business areas while profitably supplying the merchant markets; and to develop strategic core competencies in GMP products, controlled substances, highly potent compounds, and cryogenic processes. Several "site imperatives" were listed including obtaining critical mass through optimization and addition of capacity, to improve human and facility infrastructure, and to align product portfolio with strategic core competencies and existing and future assets. It was noted that B. I. Chemicals cannot compete with the Chinese and Indians on the production of bulk chemicals. However, it

can be competitive in the production of non-multi-source products. There is no desire to become the development arm of other pharmaceutical companies. It is believed that the cost of the active ingredient to affiliates should be 7% to 10% of the prices of the finished products. It is generally essential to meet or beat the market price. 1999 is the transition year for increasing the infrastructure and the year of 2000 will be the year of alignment and increasing capacity. These processes which depend on capital investment spending can be slowed down or accelerated.

The current 1998 expectation will be lower than the 1998 budget mostly because the chemical company will keep $6 Million of nevirapine in its inventory instead of selling it to BIGmbH. Also, R-One sales to affiliates did not materialize resulting in a write-off of R-One base material and assets of $10.4 Million. Hydrocerol profits are down because of start-up costs and other problems. Without these problems, B. I. Chemicals would have had a good year. 1999 operating profit is projected to be $5.2 to $6 Million after absorbing additional costs for expansion and infrastructure. Capital spending was initially set at $45 Million but has been cut back and will be re-examined. The five-year plan currently calls for $250 to $300 Million in capital expenditures.

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<u>Roxane Laboratories, Inc. – Latest Preview for 1998 and Budget 1999</u>
(Invited Guests: Mr. Berkle, Dr. Shepard and Mr. Russillo)

Mr. Berkle explained the reorganization of the Strategic Business Unit Ethical Pharmaceuticals, advising that it now has two components, one being generic drugs and the other branded generic drugs. The separate legal entities and names of the various operating companies have been maintained. Sales and marketing for branded generics will report to BIPI counterparts. Mr. Russillo will be responsible for the regular generic products at RLI. Dr. Shepard will have responsibility for the strategic plan and business development. The contracting and pricing department will be combined for RLI and BIPI.

The year-to-date sales expectation for RLI was $249 Million whereas the actual year-to-date sales were $270 Million. The initial year-end expectation was $338 Million and the actual is now projected to be $346 Million. The operating income budget was $65,516,000 and the expectation is now $70,872,000. The 1999 sales budget is $365 Million with a Contribution III of $55 Million.

There was a discussion as to why the RLI sales are projected to be so flat. It was generally agreed that the problem is with expected price competition of multi-source generics such as ipratropium bromide, hydroxyurea and others. Their sales will be less than $28 Million.

A discussion followed about the appropriate monies to spend at RLI on R&D and medical costs, and it was emphasized that medical costs in 1999 should be no greater than the 1998 expectations. A balance must be achieved to assure a product flow at Roxane but not to expend significant money if there is a better return elsewhere. It was noted that there is projected a $12 Million increase in sales and a $12 Million increase in expenses. This will be due to price erosion and reduced margins. It was agreed that expenses must be brought back into line with current sales. Expenses are to be split appropriately between branded generic and generic products.

The pipeline for multi-source products is very small for 1999 and 2000. RLI obtained FDA approval of oxycodone SR a year early. This and several other products will be launched in 1999. All branded generics are to be re-examined to determine whether expenditures to develop new dose forms, delivery forms, etc. should be incurred.

Ben Venue Laboratories, Inc. – Presentation of Latest Preview for 1998 and Budget 1999
(Invited Guests: Mr. Russillo and Mr. Berkle)

The BVL business consists of a contract manufacturing business for third parties and a generic drug division named Bedford Labs. The contract manufacturing business is $1 Million over budget in sales and it is expected to be $1 Million over budget at year-end. Operating income will be about on budget. New product launches were significant in 1998. Pfizer and Merck are major customers of the contract manufacturing business. The 1998 sales expectation for contract manufacturing is $45,702,000 with an operating income of $18,721,000. The 1999

sales budget is $49,913,000 with an operating income of $20,881,000. Additional capital investment will be required to get to the 2004 numbers because BVL is now running almost at capacity. Batch sizes will be increased on the contract manufacturing side, but on the generic products BVL already has the largest batch size it can make. 1998 sales for the Bedford Labs products are expected to be $102 Million against a 1998 budget of $88,532,000. Operating income of the Bedford line is expected to slightly in excess of $47 Million against a budget of $35 Million.

It was stated that 10 ANDAs were approved in 1998 and that BVL was the "first generic" in four cases. Three other products are currently awaiting approval – some with significant patent issues. 29 ANDAs are pending.

On a consolidated basis, BVL's actual sales year-to-date are $117 Million against a budget of $104 Million. Total 1998 sales are expected to be $148 Million against a budget of $138 Million.

A short discussion of the potential for internationalizing the BVL products ensued. The original plan was to register some of the BVL products in most countries of Europe. The execution of this plan will need more time. Today the focus is still on Europe, but BVL will also be looking at South America. It was observed that Brazil is an excellent opportunity notwithstanding that there is no patent protection. The fact that administrative expenses are going up from $1 Million to $3.1 Million to $8+ Million in 1999 was questioned. It was explained that $5 Million is for patent litigation, $1 Million is for environmental issues, and the rest is for rebates and fees paid to hospitals. Also, certain line items in the budget were wrong as details were not known at the beginning of the year.

Boehringer Ingelheim Pharmaceuticals, Inc. – Presentation of Latest Preview for 1998 and Budget 1999 *(Invited Guest: Mr. Berkle)*

A co-promotion agreement with Abbott for three BIPI products is being negotiated and the results of these negotiations will have a great impact on the 1999 budget numbers. A financial analysis was described comparing the cost and revenues from an Abbott deal compared to the hiring of a CSO (contract sales force), and compared to increasing BIPI's own sales force. The details of the Abbott negotiations were explained at some length. It was felt important to make an Abbott type deal so that the risks could be shared if the products are not as successful as they are projected to be.

MICARDIS® (telmisartan) will be launched as soon as an approvable letter from the FDA is in hand. Some labeling issues remain. MICARDIS® will be the fifth or sixth of this type drug in the market. AGGRENOX™ (aspirin/dipyridamole) is expected to be launched in June 1999. The NDA will not be submitted by year-end. The product is being supported by the FDA and NIH as good for the public health. Although a patent has been filed, no patent has as yet issued. BIPI will receive three years of exclusivity under the Hatch-Waxman act in any event. It is believed that AGGRENOX™ may reach sales of at least $250 Million. ATROVENT® (ipratropium bromide) is performing well – COMBIVENT® (albuterol/ipratropium bromide) is growing at a slower rate than anticipated. Together, both products are performing well. FLOMAX® (tamsulosin) is growing exceptionally well and may reach $130 Million by year end 1999. A sales growth of 23% is expected in 1999. Total direct promotion expense will rise significantly. MOBIC® (meloxicam) will be launched in the first quarter of 2000 along with telmisartan. Tiotropium is also expected to be launched in 2001. Total projected sales for the SBU ethical pharmaceutical in 2004 is projected to be $3.6 Billion.

The Board was queried as to where it would like to see a cut of $135 Million in U.S. expenses and whether the company should be willing to forego growth on the top line in order to generate profits. It was suggested that cutting costs in certain areas may not necessarily translate to significant lower sales growth. It was agreed that the major growth is likely to come from the region encompassing the U.S.A. and that it would not be prudent to squeeze this region to the point that it is in jeopardy because this would have a huge impact on worldwide performance.

Self-Medication Unit – Presentation of Latest Preview for 1998 and Budget 1999
(Invited Guest: Mr. Peterson)

An overhead presentation of sales from 1994 through 1998 showed that sales are expected to rise from $35 Million to approximately $135 Million in 1998. The overall profit contribution has increased every year from 1995 and the division has been well above the average benchmark of profitability for this industry. Since April, 1998, the herbal supplement category as such has experienced a precipitous drop. The category is now flat. This phenomenon is caused by a drop in media coverage which was later replaced by negative news. Unit and dollar sales in this category are both declining. Most of the large companies have delayed their product launches. The division's first preview figures were based on pre-April data. The current data shows decreases or much lower increases. The division continues to increase sales over previous years, but the preview number was just too high. For 1998, the original budgeted sales were $123 Million. The initial preview was $159 Million, the expectation was $143 Million and the most recent projection is $133 Million. Direct promotion expenses have been cut. Competition has introduced products at very low prices making it difficult to hold market share. The challenges for 1999 will include low priced competition, negative press, pharmaceutical company competition and loss of novelty. The solutions to these

problems will include: quality leadership, continued new products, entry into the over-the-counter drug market, minimized price, professional programs, and continued brand emphasis with adequate promotional support.

The 1999 budget calls for $180 Million in sales but this is now known not to be realistic. Sales will have to be re-forecasted based on current trends. 1999 sales will be revised back to $168 Million. In order to maintain SM's position in the coming " shake out," it will be necessary to stay the course (don't change strategy), maintain its integrity, and provide consumer value. It was generally stated that obtaining the $3.3 Million in profit originally budgeted for 1998 would result in a reduction of sales of $15 to $20 Million. It was definitively stated that cutting prices would not be successful.

<u>Research and Development – Presentation of latest Preview for 1998 and Budget 1999</u>
(Invited Guest: Prof. Dr. Mueller)

It was explained that R&D has currently 521 employees in Ridgefield against a budget of 627. The R&D expense budget for 1998 was $131 Million. Actual expense will be $127.7 Million. The challenges for R&D in 1999 will be to reshape the organization and find new targets. It is difficult to hire new scientists in the U.S. and we must be creative to keep the current employees and attract new people. Dr. Mueller then described in some detail the new organization and the disease targets currently being focused upon. BIPI R&D is on track with compounds ready for the development stage. The 1999 budget calls for expenditures of $144 Million instead of the $141 Million contained in the Strategic Plan. The budgeted headcount for 1999 shows an increase of 44. Areas where expenditures can be reduced are: reduction in 1999 hires ($3.3 Million); reduction of outside research spending ($5.5 Million); and other spending, such as on training, etc. ($4.1 Million). Capital spending will be about $700,000 less in 1998

than budgeted. The original 1999 Budget proposed in 1997 called for $13,194,000 in capital spending. The amount proposed in 1998 for the 1999 Budget is $17,654,000. If a 25% cut is required, it will have to come from B1 and B2 categories.

<u>**Medical and Drug Regulatory Affairs – Presentation of Latest Preview for 1998 and Budget 1999**</u> (Invited Guest: Dr. Wilson).

Dr. Wilson began his presentation by advising that 4 NDAs and 14 INDs had been submitted in 1998 and that 5 NDAs had been approved in 1998. The 1998 budget for Medical and Drug Regulatory Affairs was $102.3 Million. The initial expectation was $108.3 Million and the current outlook for year-end 1998 will be $103.7 Million. The 1999 budget as submitted calls for expenditures of $146,342,000. This increase is due primarily to anticipated increases in grant costs. Dr. Wilson presented an overhead showing a breakdown of the significant items.

<u>**Consolidated Overview on the Development of Headcount for BIC and Its Subsidiaries**</u>
(Invited Guest: Mr. Nurnberger)

There are currently 4,000 employees in the United States against a current budget of 4,500 and a 1998 expectation of 4,746. It is not anticipated now that the company will actually hire the expectation number this year. Year-end headcount will be approximately 4,600. For 1999, a headcount budget of 5,298 was submitted. This increase was driven in part by an anticipated increase in the field force. The revised budget will show a decrease in targeted headcount. The 1999 headcount budget will be scrutinized in the next two weeks.

<u>**Consolidated Financial Overview of Preview 1998 and Budget 1999**</u>
(Invited Guest: Mr. Huels)

It was stated that year-to-date sales are approximately $7 Million below the budget. It appears that October will be a very, very strong month. Contribution III is below budget year-to-

date. The Contribution III budget year-to-date through September is $267.1 Million whereas the actual number is $228.3 Million. Operating profit is also below budget. It was projected that on a consolidated basis, the corporation would make the year-end budget for net sales and confidence was expressed that the Contribution III budget will be achieved at year end. With respect to operating profit, at the end of September, the company had achieved only 48% of the budget, with 52% left for achievement in the last three months. However, $18 Million in savings have been identified and there is a good chance that the operating profit expectation will be achieved if the sales number is achieved. The prospects for both are good.

The 1999 budgets project loans outstanding of $679 Million with a total annual interest expense of approximately $35 Million.

Inventory turnover targets have not been met in 1998 but are improving. Outstanding accounts receivables in one of the subsidiaries is of concern due to wholesaler behavior. In 1998, Roxane discontinued 60 SKUs and BIPI discontinued 15.

At a previous meeting, the Chairman had requested a report on fiduciary responsibilities such as the 401(k) Plan and the Pension Plan, and Mr. Gerstenberg handed out a report at this time.

Other Business

The next meeting of the Board of Directors is set for March 31 and April 1, 1999 at the Mayflower Inn in Washington, Connecticut. The primary purpose will be to discuss the strategy for the U.S.

The following observations were made at the conclusion of the meeting:

- The company will be successful only if it can market innovative new products. Achieving this will require a vigorous review of internal projects as well as outside licenses.
- Expense growth has exceeded the growth in revenue for the past several years. This trend must be corrected.
- Management must convey the need to make changes and the rationale for doing it.
- The company must be willing to turn down certain projects if the return on investment is doubtful.

The Chairman called for further business, and there being none, the meeting was adjourned at approximately 6:30 p.m.

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Board of Directors Meeting of October 28, 1998
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